

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARQUIS D. RYAN,

Defendant-Appellant.

UNPUBLISHED

September 16, 1997

No. 197539

Recorder's Court

LC No. 95-007487-FY

Before: Markman, P.J., and McDonald and Fitzgerald, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial convictions of carjacking, MCL 750.529a; MSA 28.797(a), two counts of armed robbery, MCL 750.529; MSA 28.797, first-degree criminal sexual conduct (CSC) during the commission of another felony, MCL 750.520b(1)(c); MSA 28.788(2)(1)(c); first-degree CSC while using a weapon, MCL 750.520b(1)(e); MSA 28.788(2)(1)(e), first-degree CSC while being aided by one or more accomplices, MCL 750.520b(1)(d); MSA 28.788(2)(1)(d), and possession of firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). He was sentenced to two years' imprisonment for the felony-firearm conviction, seven to fifteen years for the armed robbery convictions and the carjacking conviction, and twenty to forty years' imprisonment for each of the CSC first-degree convictions. We affirm.

Defendant first contends that the evidence was insufficient to support the CSC convictions. The essential elements of first-degree CSC for which defendant was convicted of are that the accused engaged in sexual penetration with another person, and one of the following: (1) the sexual penetration occurred under circumstances involving the commission of any other felony; (2) the actor is aided or abetted by one or more persons and the actor uses force or coercion to accomplish the sexual penetration; and (3) the actor is armed with a weapon. MCL 750.520b(1)(c), (d), and (e); MSA 28.788(2)(1)(c), (d), and (e).

The victim testified that four men attacked her and that she was sexually penetrated four times by four different men. She testified that all four men had guns and that she was struck by one of the guns while she was being raped. Defendant admitted that he and three other men were present during

the rape, and admitted that he committed the carjacking and armed robbery. Viewing this evidence and all reasonable inferences in a light most favorable to the prosecution, we conclude that a rational trier of fact could have found that all of the essential elements were proven beyond a reasonable doubt. *People v Jacques*, 215 Mich App 699, 702-703; 547 NW2d 49 (1996).

Defendant also argues that conviction of multiple counts of CSC violates the prohibition against double jeopardy because the victim's testimony established that he sexually penetrated her only one time. We disagree. This is not a case of a defendant being convicted of multiple counts of first-degree CSC based upon his single act of penetration. Cf. *People v Johnson*, 406 Mich App 320; 279 NW2d 534 (1979). Rather, this case involves multiple penetrations and multiple actors. Defendant's actions in aiding and facilitating the multiples rapes of the victim by his companions were sufficient to convict him as an aider and abettor as well as for his own act of penetration. *People v Rogers*, 142 Mich App 88, 92; 368 NW2d 900 (1985); *People v Pollard*, 140 Mich App 216, 220; 363 NW2d 453 (1985).

Affirmed.

/s/ Stephen J. Markman

/s/ Gary R. McDonald

/s/ E. Thomas Fitzgerald